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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 CHARLYNN YBANEZ QUINTANA,

11 Plaintiff,

12 v.

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14 USAA LIFE INSURANCE COMPANY
15 and USAA GENERAL INDEMNITY
16 COMPANY, foreign insurers,

17 Defendants.

Case No. C19-397 RSM

ORDER DENYING MOTION TO
CONTINUE TRIAL AND RE-SET
DEADLINES

18 This matter comes before the Court on Plaintiff Quintana's Motion seeking to modify
19 the Court's Scheduling Order by continuing the trial date, discovery deadline, and expert
20 disclosure deadline. Dkt. #21. Plaintiff argues that she is "unable to prepare her case for trial
21 because critical discovery has not been answered by defendants." *Id.* at 3.

22 Trial is currently set for April 13, 2020. Dkt. #14. Expert witness disclosures were due
23 on October 16, 2019; Discovery motions were due on November 15; Discovery was to be
24 completed on December 15. *Id.* The instant Motion was filed on December 5 and noted for
25 consideration on December 20, 2019.
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1 A scheduling order “may be modified only for good cause and with the judge’s
2 consent.” Fed. R. Civ. P. 16(b)(4). The decision to modify a scheduling order is within the
3 broad discretion of the district court. *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604,
4 607 (9th Cir. 1992). “Rule 16(b)’s ‘good cause’ standard primarily considers the diligence of
5 the party seeking amendment.” *Id.* at 609. If a party has acted diligently yet still cannot
6 reasonably meet the scheduling deadlines, the court may allow modification of the schedule.
7 *Id.* However, “if that party was not diligent, the inquiry should end” and the motion to modify
8 should not be granted. *Id.* “Mere failure to complete discovery within the time allowed does
9 not constitute good cause for an extension or continuance.” LCR 16(b)(5). Local Civil Rule
10 16(m) states that “this rule will be strictly enforced” in order to “accomplish effective pretrial
11 procedures and avoid wasting the time of the parties, counsel, and the court.”
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14 The Court deems Plaintiff’s motion a discovery motion—essentially a precursor to a
15 motion to compel. However, the deadline for discovery motions expired prior to this Motion
16 being filed, and discovery closed before this Motion was noted for the Court’s consideration.
17 Plaintiff’s Motion is untimely.
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19 In any event, the Court is primarily concerned with the diligence of the party seeking to
20 modify these deadlines. Plaintiff has failed to present adequate evidence or argument on this
21 question. Defendants certainly argue that Plaintiff has waited until the last possible moment to
22 file this Motion, or after the last possible moment. *See* Dkt. #26 at 3. Although it is Plaintiff’s
23 burden to demonstrate good cause, Defendants take the opportunity in their Response to present
24 evidence that Plaintiff has not been diligent in a) seeking discovery, b) meeting and conferring
25 about allegedly inadequate discovery responses, c) filing a motion to compel or d) seeking an
26 extension to the expert disclosure deadline. *Id.* at 3–6.
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1 On Reply, Plaintiff points out that she granted Defendants extensions to provide
2 discovery responses and argues that Defendants are engaged in “procedural gamesmanship.”
3 Dkt. #29.

4 The adequacy or reasonableness of Defendants’ discovery responses is not properly
5 before the Court. The only issue is whether Plaintiff has demonstrated good cause to reopen
6 discovery and continue the trial date. Plaintiff has the burden to demonstrate her diligence in
7 pursuing discovery and in making timely expert disclosures and has failed to do so.
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9 Having reviewed the relevant briefing, attached declarations, and the remainder of the
10 record, the Court hereby finds and ORDERS that Plaintiff Quintana’s Motion to Continue Trial
11 and Re-Set Deadlines (Dkt. #21) is DENIED.
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13 DATED this 9th day of January 2020.

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16 RICARDO S. MARTINEZ
17 CHIEF UNITED STATES DISTRICT JUDGE
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